

**DATES:** Written or electronic comments and requests for a public hearing must be received by December 16, 2005.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-114444-05), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-114444-05), Courier's Desk, 1111 Constitution Avenue, NW., Washington, DC 20224 or sent electronically via the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-114444-05).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Neil Worden, (202) 283-7900; concerning submissions of comments Robin Jones, Publications and Regulations Branch, (202) 622-3521 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend 26 CFR part 801. The temporary regulations amend part 801 to clarify when quantity measures, which are not tax enforcement results, may be used in measuring organizational and employee performance. The text of those regulations also serves as the text of these regulations. The "Explanation of Provisions" section of the temporary regulations explains the temporary regulations and these proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations,

consideration will be given to any written or electronic comments that are timely submitted to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Karen F. Keller, Office of Associate Chief Counsel (General Legal Services). However, other personnel from the IRS participated in their development.

**List of Subjects in 26 CFR Part 801**

Government employees, Organization and functions (Government agencies).

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 801 is proposed to be amended as follows:

**PART 801—BALANCED SYSTEM FOR MEASURING ORGANIZATIONAL AND INDIVIDUAL PERFORMANCE WITHIN THE INTERNAL REVENUE SERVICE**

**Paragraph 1.** The authority citation for Part 801 continues to read in part as follows:

**Authority:** 5 U.S.C. 9501 \* \* \*.

**Par. 2.** Section 801.1T is redesignated as § 801.1 and amended by revising the section heading to read as follows:

**§ 801.1 Balanced performance measurement system; in general.**

[The text of proposed § 801.1 is the same as the text of § 801.1T published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** Section 801.2T is redesignated as § 801.2 and amended by revising the section heading to read as follows:

**§ 801.2 Measuring organizational performance.**

[The text of proposed § 801.2 is the same as the text of § 801.2T published elsewhere in this issue of the **Federal Register**.]

**Par. 4.** Section 801.3T is redesignated as § 801.3 and amended by revising the section heading to read as follows:

**§ 801.3 Measuring employee performance.**

[The text of proposed § 801.3 is the same as the text of § 801.3T published

elsewhere in this issue of the **Federal Register**.]

**Par. 5.** Section 801.4T is redesignated as § 801.4 and amended by revising the section heading to read as follows:

**§ 801.4 Customer satisfaction measures.**

[The text of proposed § 801.4 is the same as the text of § 801.4T published elsewhere in this issue of the **Federal Register**.]

**Par. 6.** Section 801.5T is redesignated as § 801.5 and amended by revising the section heading to read as follows:

**§ 801.5 Employee satisfaction measures.**

[The text of proposed § 801.5 is the same as the text of § 801.5T published elsewhere in this issue of the **Federal Register**.]

**Par. 7.** Section 801.6T is redesignated as § 801.6 and amended by revising the section heading to read as follows:

**§ 801.6 Business results measures.**

[The text of proposed § 801.6 is the same as the text of § 801.6T published elsewhere in this issue of the **Federal Register**.]

**Par. 8.** Section 801.7T is redesignated as § 801.7 and amended by revising the section heading to read as follows:

**§ 801.7 Examples.**

[The text of the proposed § 801.7 is the same as the text of § 801.7T published elsewhere in this issue of the **Federal Register**.]

**Par. 9.** Section 801.8T is redesignated as § 801.8 and amended by revising the section heading to read as follows:

**§ 801.8 Effective dates.**

[The text of proposed § 801.8 is the same as the text of § 801.8T published elsewhere in this issue of the **Federal Register**.]

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 05-20438 Filed 10-14-05; 8:45 am]

BILLING CODE 4830-01-P

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**45 CFR Chapter XXV**

**AmeriCorps State and National, Senior Corps, and Learn and Serve**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice inviting preliminary informal public input in advance of rulemaking on criminal background checks for AmeriCorps State/National, Senior Corps, and Learn and Serve America grant programs.

**SUMMARY:** The Corporation for National and Community Service (the Corporation) invites public input regarding a Corporation requirement that grantees conduct and document criminal background checks on grant-funded employees and participants who, on a recurring basis, have access to children and other vulnerable populations, including the elderly and individuals with disabilities. In addition, the Corporation seeks input concerning whether any category of individuals should, on the basis of their criminal histories, be disqualified from working or participating in a Corporation-funded project in which they have such access.

We will consider input submitted in writing, as described below, or orally in one of two conference calls we will hold on the dates listed below. The Corporation will not respond formally to this input, but will consider it in drafting any Notice of Proposed Rulemaking. The public will have a separate opportunity to provide formal comment on any proposed rule the Corporation publishes for comment in 2005 or thereafter.

**DATES:** Please submit written input to the Corporation as soon as possible. In addition, the Corporation will hold conference calls on this topic on October 21, 2005 and October 28, 2005. See Supplementary Information for conference call information.

**ADDRESSES:** You may submit written input to the Corporation by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to [tbryant@cns.gov](mailto:tbryant@cns.gov).

(2) By fax to 202-606-3467, Attention Tom Bryant, Associate General Counsel.

(3) By mail sent to: Corporation for National and Community Service, Attn: Tom Bryant, Associate General Counsel, 1201 New York Avenue NW., Suite 10600, Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 8410 at the mail address given in paragraph (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Due to continued delays in the Corporation's receipt of mail, we strongly encourage responses via e-mail or fax. You may request this notice in an alternative format for the visually impaired.

**FOR FURTHER INFORMATION CONTACT:** For further information about the substance of this notice, or for information about the conference calls, contact Tom Bryant at (202) 606-6678

([tbryant@cns.gov](mailto:tbryant@cns.gov)). The TDD/TTY number is (800) 833-3722.

**SUPPLEMENTARY INFORMATION:** Many national and community service programs are dedicated to helping children learn to read, giving at-risk children better opportunities to thrive, helping the elderly maintain their independence, and otherwise serving vulnerable individuals. With that commitment comes the responsibility to safeguard the well-being of program beneficiaries, including thorough effective screening of staff, participants, and volunteers in each program. Several years ago, a Corporation-sponsored technical assistance provider published the Staff Screening Tool Kit, 2nd Edition with helpful information designed to strengthen an organization's screening process. You may download the Tool Kit at <http://www.nationalservice.gov/screeningtoolkit>.

Currently, only the AmeriCorps State and National grant program has a criminal background check requirement in its grant provisions. For the 2005-2006 program year, it states as follows: Criminal Background Checks.

Programs with members (18 and over) or grant-funded employees who, on a recurring basis, have access to children (usually defined under state or local law as un-emancipated minors under the age of 18) or to individuals considered vulnerable by the program (i.e. the elderly or individuals who are either physically or mentally disabled), shall, to the extent permitted by state and local law, conduct criminal background checks on these members or employees as part of the overall screening process.

The grantee must ensure, to the extent permitted by state or local law, that it maintains background check documentation for members and employees covered by this provision in the member or employee's file or other appropriate file. The documentation must demonstrate that, in selecting or placing an individual, the grantee or the grantee's designee (such as a site sponsor) reviewed and considered the background check's results.

The Corporation intends to codify a requirement for AmeriCorps through the formal rulemaking process and seeks input on whether the current provision should be maintained or amended.

Senior Corps is comprised of three separate programs: (1) The Foster Grandparent Program (FGP); (2) the Senior Companion Program (SCP); and (3) the Retired Senior Volunteer Program. We intend to codify a requirement for each program through the formal rulemaking process.

The Learn and Serve Program consists of (1) School-Based K-12 Programs; (2) Higher Education Programs, and (3) Community-Based Programs. Given the fact that participants in Learn and Serve programs are generally not individually attributable to a Corporation grant, we are considering whether and to what extent we should codify requirements relating to the screening of staff and participants in Learn and Serve America programs.

The Corporation intends to strengthen its internal procedures for its two Federally-conducted programs, AmeriCorps National Civilian Community Corps and AmeriCorps VISTA, outside the scope of this rulemaking process.

To inform the rulemaking process, the Corporation invites preliminary informal input from the public addressing a criminal background check requirement for grantees. The Corporation specifically invites input on the following questions:

(1) What are the most effective screening practices used by organizations that serve children and other vulnerable populations?

(2) Is recurring access to children and other vulnerable populations (i.e. the elderly or individuals who are either physically or mentally disabled) the most appropriate way to describe the predicate for the background check requirement?

(3) What are the costs associated with conducting criminal background checks?

(4) What are the types and levels of background checks that are available to grantees?

(5) Should the Corporation require grantees to obtain a background check from a specific data base (e.g. state registry or the Department of Justice's National Sex Offender Public Registry at <http://www.nsopr.gov>)?

(6) Should the Corporation codify a per se disqualification for program participants or staff based upon a particular background check finding?

(7) How should the Corporation balance the goal of including at-risk participants in national and community service programs with the need to ensure appropriate protection for vulnerable populations?

(8) What are efficient and effective ways to document background checks and how should a program document that it considered such a finding of criminal history in selecting or placing an individual?

(9) Are grantees in a particular program category already required by State or local law to have safeguards in

this area that obviate or mitigate the need for a separate grant condition?

(10) Does the current language in the AmeriCorps grant provisions appropriately define the scope of the requirement and documentation of compliance?

(11) What safeguards are necessary to protect the privacy of program participants or staff?

(12) What are the best practices to monitor and enforce compliance with requirements relating to the screening of participants?

(13) Where grantees are involved in a variety of programmatic activities, as in the case of RSVP, how should the Corporation identify those programs where volunteers and staff have access to children or other vulnerable individuals on a recurring basis?

(14) To what extent do state and local laws constrain the Corporation from requiring grantees to conduct criminal background checks on national service participants or employees, who, on a recurring basis, have access to children or other vulnerable populations?

(15) How often should a criminal background check be conducted for a national service participant who serves for two or more years?

(16) Are there categories of grantees (e.g. local school districts) for whom a separate Corporation requirement for criminal background checks might not be necessary because the grantee is already independently required to have appropriate applicant screening safeguards in place?

For more information on the Corporation, please visit our Web site at: <http://www.nationalservice.gov>.

### Conference Calls and Public Input

The Corporation is planning two conference calls in October, 2005. The first will be conducted on October 21, 2005, at 3 p.m., e.s.t. and the second on October 28, 2005, also at 3 p.m. e.s.t.

The USA Toll Free Number is 1-888-790-1769. The passcode is 7282715. Each conference call will last approximately 1 hour. Please check our Web site at [http://www.nationalservice.gov/about/newsroom/releases\\_detail.asp?tbl\\_pr\\_id=196](http://www.nationalservice.gov/about/newsroom/releases_detail.asp?tbl_pr_id=196) for additional or updated information regarding these conference calls, or contact Tom Bryant at [tbryant@cns.gov](mailto:tbryant@cns.gov).

Dated: October 11, 2005.

**Frank R. Trinity,**  
General Counsel.

[FR Doc. 05-20652 Filed 10-14-05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 63 and 64

[WC Docket No. 05-271; FCC 05-150]

### Consumer Protection in the Broadband Era

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Communications Commission (Commission) initiates this rulemaking to explore whether regulations we would adopt pursuant to the Commission's ancillary jurisdiction under Title I of the Communications Act (Act) should apply to broadband Internet access service, regardless of the underlying technology providers use to offer the service. The rulemaking seeks comment on whether the imposition of regulations in the areas of consumer privacy, unauthorized changes to service, truth-in-billing, network outage reporting, discontinuance of service, rate averaging requirements, and the corresponding ability of consumers to take advantage of Commission avenues for resolution of these consumer protection issues, is desirable and necessary as a matter of public policy, or whether we should rely on market forces to address some or all of the areas listed. The rulemaking also explores whether there are other areas of consumer protection not listed above for which the Commission should impose regulations. Overall, this rulemaking will determine whether any non-economic regulatory requirements are necessary to ensure that consumer protection needs are met by all providers of broadband Internet access service.

**DATES:** Comments are due on or before January 17, 2006, and reply comments are due on or before March 1, 2006.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05-271, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site: <http://www.fcc.gov>. Follow the instructions for submitting comments on <http://www.fcc.gov/cgb/ecfs/>.
- E-mail: [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- Mail: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

- Hand Delivery/Courier: 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.fcc.gov/cgb/ecfs/>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.fcc.gov/cgb/ecfs/>.

**FOR FURTHER INFORMATION CONTACT:** William Kehoe, Senior Attorney-Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418-1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 05-271, FCC 05-150, adopted August 5, 2005, and released September 23, 2005. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at [www.bcpweb.com](http://www.bcpweb.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

### Public Participation

Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, filers must transmit one electronic copy of the comments for the docket number referenced in the caption. In completing the transmittal screen, filers should include their full